

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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UNITED STATES OF AMERICA,

-v-

JAMEL JONES, et al.,

Defendants.

18-CR-834 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

The Court has received a letter, Dkt. 63, from Scott E. Leemon, Esq., who has entered a notice of appearance on behalf of defendant Jamel Jones, proposing that a *Curcio* hearing be held in this case in light of Mr. Leemon's earlier representation of co-defendant Kifano Jordan. The Court agrees that a *Curcio* hearing is necessary to address these issues. In the interest of efficiency, the Court schedules this conference for Tuesday, January 22, 2019, at noon—*i.e.*, two-and-one-half hours before the next status conference in this case. The *Curcio* hearing will take place in courtroom 1305 of the Thurgood Marshall United States Courthouse. Defendants Jones and Jordan are to be present for this hearing.

The Court directs that, in addition to Mr. Leemon, the following counsel attend the *Curcio* hearing: Dawn Cardi, Esq., who is currently the court-appointed lead counsel for Mr. Jones and whom Mr. Leemon proposes to succeed as Mr. Jones's counsel; and James Roth, Esq., who represents Mr. Jordan. To assure that each defendant has received independent guidance as to the potential conflict and whether to waive it if the Court determines that the conflict is waivable, the Court further directs that, in advance of the hearing, Ms. Cardi consult with Mr. Jones as to the conflict question presented by Mr. Leemon's proposed representation, and that


Mr. Roth consult with Mr. Jordan about that question. While the Court is hopeful that the conflict will be determined to be waivable, counsel should not assume this conclusion, nor assume that the *Curcio* process will necessarily be completed at the January 22, 2019 noon conference. Accordingly, Ms. Cardi and Mr. Leemon should be prepared to attend and represent Mr. Jones at the 2:30 p.m. status conference, such that, if the Court has not by then approved Mr. Leemon's representation, Mr. Jones will be represented at that conference.

The Court further directs the Government, by Wednesday, January 16, 2019, to submit a letter setting forth its views as to the potential conflict, including as to whether it views the conflict as waivable and, if so, proposing specifically the allocation appropriate for each of defendants Jones and Jordan.

In his letter, Mr. Leemon separately raises an issue involving access by defendants in the MCC to discovery materials in this case. The Court will take up that issue in the all-defendants' conference scheduled for 2:30 pm on January 22, 2019. In advance of that conference, the Court directs Government counsel to work with personnel at the MCC and, as necessary, coordinating discovery counsel Emma Greenwood, Esq., to gather the facts relating to this issue and to attempt to resolve it. The Court directs Government counsel to submit a letter, by noon on Friday, January 18, 2019, reporting on the status of this issue.

For avoidance of doubt, the Court reminds Mr. Leemon that the Court has not yet approved his service as counsel for Mr. Jones, as is necessary given the conflict issue presented by his prior representation of a co-defendant. Accordingly, unless and until the Court determines that the conflict is waivable and has in fact been knowingly and intelligently waived by both Mr. Jones and Mr. Jordan, any advocacy on behalf of Mr. Jones—including relating to issues of discovery access at the MCC—is to be done by Ms. Cardi, not by Mr. Leemon.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: January 11, 2019
New York, New York